



FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA) APPEAL DECISION

FEMA Flood Insurance Appeal Decision #C7

OVERVIEW

The policyholder filed an appeal on December 2019, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied part of their claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to covered property arising from a flood event dated July 2019.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$500,000 of building coverage and \$8,000 of personal property coverage.
- The insured building is an eight-unit, tenant occupied residential building with two floors, non-elevated on a split-level concrete slab.
- Following the flood loss, the policyholder reported the loss to the insurer and the insurer assigned an adjuster to inspect the property.
- On July 2019, the adjuster inspected the building and confirmed a general and temporary condition of flood. The adjuster measured the water height at 12 inches on the exterior and 93 inches in the two rear apartments the adjuster believes are located in the basement.
- The adjuster documented damages to the building and requested the insurer retain an engineer to inspect and determine whether the two rear apartments are below ground level on all sides. The insurer retained an engineer to inspect the building.
- The insurer’s engineer inspected the building on August 2019 and could not definitively conclude the two rear apartments relationship to the exterior ground level.
- The insurer accepted the adjuster’s recommendation that the two rear apartments should be considered basements with limited coverage.
- The insurer issued the policyholder payments totaling \$66,649.64 for building damages and \$2,361.99 for personal property damages.
- In a letter dated November 2019, the insurer partially denied coverage for items in the two rear apartments citing to basement limitations.
- The policyholder appeals the insurer’s decision to apply basement limitations to the two rear apartments.
- The policyholder did not submit any additional documentation supporting the appeal; therefore, FEMA’s decision is based on the documentation in the claim file.

¹ See 44 C.F.R. § 61.13 (2018); General Property Form available at 44 C.F.R. pt. 61 App. A(2) [hereinafter “SFIP”].

² The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

RULES

The insurer agrees to pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complied with all terms and conditions of the SFIP.³

The SFIP defines a basement as any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level on all sides.⁴

ANALYSIS

The policyholder is appealing the insurer's denial of coverage due to basement limitations.

The insurer agrees to pay the policyholder for direct physical loss by or from flood to covered property. The SFIP defines a basement as any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level on all sides.

FEMA's review finds the first-floor slab has two levels making this a multi-level first floor. The insurer's engineer provided a report that included a diagram of the building's slab. This diagram shows spot elevations throughout the first floor slab and the surrounding ground surface areas and demonstrates the slab for the two rear apartments is higher than the slab for the two front apartments. The diagram shows the slab elevations for the two front apartments are higher than the exterior ground level on three sides. The engineer's diagram confirms that the floor of the front apartments is above ground level which eliminates the SFIP basement classification.

Based on documentation in the insurer's claim file and contained in the engineering report, FEMA's review finds the claim needs to be re-evaluated.

CONCLUSION

Based on the facts and analysis above, FEMA overturns the insurer's determination that the two rear apartments are basements as defined by the SFIP. FEMA requests the insurer re-open the claim and apply the correct SFIP coverage for the two rear apartments.

Any further adjustment of the claim remains under the direction of the insurer in accordance with all terms and conditions of the SFIP.

³ See SFIP (I), (II)(B)(12), (III)(A).

⁴ See SFIP (II)(5).